Assembly Bill No. 994

CHAPTER 722

An act to add Section 20103.6 to the Public Contract Code, relating to local agency contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 994, Sweeney. Local Agency Public Construction Act: architectural design services: bids.

The Local Agency Public Construction Act sets forth the procedures pursuant to which local agencies may solicit and evaluate bids or proposals for, and award, contracts for the construction of public works.

This bill would, as of July 1, 1998, require any local agency subject to the act, in the procurement of architectural design services requiring an expenditure in excess of $10,000, to include in any request for proposals for those services or invitation to bid from a prequalified list for a specific project, a disclosure of any contract provision that would require the contracting architect to indemnify and hold harmless the local agency against any and all liability, whether or not caused by the activity of the contracting architect. It would provide that, in the event a local agency fails to disclose such a contract provision in the request for proposals or invitation to bid, that local agency would (1) be precluded from requiring the selected architect to agree to any contract provision requiring the selected architect to indemnify or hold harmless the local agency against any and all liability not caused by the activity of the selected architect, (2) be required to cease discussions with the selected architect and reopen the request for proposals or invitations to bid, or (3) be required to mutually agree to an indemnity clause acceptable to both parties.

The people of the State of California do enact as follows:

SECTION 1. Section 20103.6 is added to the Public Contract Code, to read:

20103.6. (a) (1) Any local agency subject to this chapter shall, in the procurement of architectural design services requiring an expenditure in excess of ten thousand dollars ($10,000), include in any request for proposals for those services or invitations to bid from a prequalified list for a specific project a disclosure of any contract provision that would require the contracting architect to indemnify

and hold harmless the local agency against any and all liability, whether or not caused by the activity of the contracting architect.

(2) The disclosure statement shall be prominently set forth in bold type.

(b) In the event a local agency fails to comply with paragraph (1) of subdivision (a), that local agency shall (1) be precluded from requiring the selected architect to agree to any contract provision requiring the selected architect to indemnify or hold harmless the local agency against any and all liability not caused by the activity of the selected architect, (2) cease discussions with the selected architect and reopen the request for proposals or invitations to bid from a qualification list, or (3) mutually agree to an indemnity clause acceptable to both parties.

(c) This section shall become operative on July 1, 1998.

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